

Article - Public Utilities

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§7–704.1.

(a) (1) The General Assembly finds and declares that:

(i) the development of offshore wind energy is important to the economic well-being of the State and the nation; and

(ii) it is in the public interest of the State to facilitate the construction of at least 1,200 megawatts of Round 2 offshore wind projects in order to:

1. position the State to take advantage of the economic development benefits of the emerging offshore wind industry;

2. promote the development of renewable energy sources that increase the nation's independence from foreign sources of fossil fuels;

3. reduce the adverse environmental and health impacts of traditional fossil fuel energy sources; and

4. provide a long-term hedge against volatile prices of fossil fuels.

(2) After the effective date of Commission regulations implementing this section and § 7–704.2 of this subtitle, and before June 30, 2017, a person may submit an application to the Commission for approval of a proposed Round 1 offshore wind project.

(3) (i) On receipt of the application for approval of a Round 1 offshore wind project, the Commission shall:

1. open an application period when other interested persons may submit applications for approval of Round 1 offshore wind projects; and

2. provide notice that the Commission is accepting applications for approval of Round 1 offshore wind projects.

(ii) The Commission shall set the closing date for the application period to be no sooner than 90 days after the notice provided under subparagraph (i) of this paragraph.

(4) The Commission shall provide additional application periods beginning, respectively:

(i) January 1, 2020, for consideration of Round 2 offshore wind projects to begin creating ORECs not later than 2026;

(ii) January 1, 2021, for consideration of Round 2 offshore wind projects to begin creating ORECs not later than 2028; and

(iii) January 1, 2022, for consideration of Round 2 offshore wind projects to begin creating ORECs not later than 2030.

(5) In its discretion, the Commission may provide for additional application periods.

(b) Unless extended by mutual consent of the parties, the Commission shall approve, conditionally approve, or deny an application within 180 days after the close of the application period.

(c) An application shall include:

(1) a detailed description and financial analysis of the offshore wind project;

(2) the proposed method of financing the offshore wind project, including documentation demonstrating that the applicant has applied for all current eligible State and federal grants, rebates, tax credits, loan guarantees, or other programs available to offset the cost of the project or provide tax advantages;

(3) a cost–benefit analysis that shall include at a minimum:

(i) a detailed input–output analysis of the impact of the offshore wind project on income, employment, wages, and taxes in the State with particular emphasis on in–State manufacturing employment;

(ii) detailed information concerning assumed employment impacts in the State, including the expected duration of employment opportunities, the salary of each position, and other supporting evidence of employment impacts;

(iii) an analysis of the anticipated environmental benefits, health benefits, and environmental impacts of the offshore wind project to the citizens of the State;

(iv) an analysis of any impact on residential, commercial, and industrial ratepayers over the life of the offshore wind project;

(v) an analysis of any long-term effect on energy and capacity markets as a result of the proposed offshore wind project;

(vi) an analysis of any impact on businesses in the State; and

(vii) other benefits, such as increased in-State construction, operations, maintenance, and equipment purchase;

(4) a proposed OREC pricing schedule for the offshore wind project that shall specify a price for the generation attributes, including the energy, capacity, ancillary services, and environmental attributes;

(5) a decommissioning plan for the project, including provisions for decommissioning as required by the United States Department of the Interior;

(6) a commitment to:

(i) abide by the requirements set forth in subsection (e) of this section; and

(ii) deposit at least \$6,000,000, in the manner required under subsection (g) of this section, into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article;

(7) a description of the applicant's plan for engaging small businesses, as defined in § 14–501 of the State Finance and Procurement Article;

(8) a commitment that the applicant will:

(i) use best efforts to apply for all eligible State and federal grants, rebates, tax credits, loan guarantees, or other similar benefits as those benefits become available; and

(ii) pass along to ratepayers, without the need for any subsequent Commission approval, 80% of the value of any state or federal grants, rebates, tax credits, loan guarantees, or other similar benefits received by the project and not included in the application; and

(9) any other information the Commission requires.

(d) (1) The Commission shall use the following criteria to evaluate and compare proposed offshore wind projects submitted during an application period:

(i) lowest cost impact on ratepayers of the price set under a proposed OREC pricing schedule;

(ii) potential reductions in transmission congestion prices within the State;

(iii) potential changes in capacity prices within the State;

(iv) potential reductions in locational marginal pricing;

(v) potential long-term changes in capacity prices within the State from the offshore wind project as it compares to conventional energy sources;

(vi) the extent to which the cost-benefit analysis submitted under subsection (c)(3) of this section demonstrates positive net economic, environmental, and health benefits to the State;

(vii) the extent to which an applicant's plan for engaging small businesses meets the goals specified in Title 14, Subtitle 5 of the State Finance and Procurement Article;

(viii) the extent to which an applicant's plan provides for the use of skilled labor, particularly with regard to the construction and manufacturing components of the project, through outreach, hiring, or referral systems that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article;

(ix) the extent to which an applicant's plan provides for the use of an agreement designed to ensure the use of skilled labor and to promote the prompt, efficient, and safe completion of the project, particularly with regard to the construction, manufacturing, and maintenance of the project;

(x) the extent to which an applicant's plan provides for compensation to its employees and subcontractors consistent with wages outlined under §§ 17–201 through 17–228 of the State Finance and Procurement Article;

(xi) siting and project feasibility;

(xii) the extent to which the proposed offshore wind project would require transmission or distribution infrastructure improvements in the State;

(xiii) estimated ability to assist in meeting the renewable energy portfolio standard under § 7–703 of this subtitle; and

(xiv) any other criteria that the Commission determines to be appropriate.

(2) In evaluating and comparing an applicant’s proposed offshore wind project under paragraph (1) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(3) The Commission shall verify that representatives of the United States Department of Defense and the maritime industry have had the opportunity, through the federal leasing process, to express concerns regarding project siting.

(4) (i) In this paragraph, “minority” means an individual who is a member of any of the groups listed in § 14–301(k)(1)(i) of the State Finance and Procurement Article.

(ii) If an applicant is seeking investors in a proposed offshore wind project, it shall take the following steps before the Commission may approve the proposed project:

1. make serious, good–faith efforts to solicit and interview a reasonable number of minority investors;

2. as part of the application, submit a statement to the Commission that lists the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the entity submitting an application;

3. as a condition to the Commission’s approval of the offshore wind project, sign a memorandum of understanding with the Commission that requires the applicant to again make serious, good–faith efforts to interview minority investors in any future attempts to raise venture capital or attract new investors to the offshore wind project; and

4. as a condition to the Commission’s approval of the offshore wind project, sign a memorandum of understanding with the Commission that requires the applicant to use best efforts and effective outreach to obtain, as a goal, contractors and subcontractors for the project that are minority business enterprises, to the extent practicable, as supported by a disparity study.

(iii) The Governor’s Office of Small, Minority, and Women Business Affairs, in consultation with the Office of the Attorney General, shall

provide assistance to all potential applicants and potential minority investors to satisfy the requirements under subparagraph (ii)1 and 3 of this paragraph.

(5) As a condition of the Commission's approval of the offshore wind project, the applicant shall sign a memorandum of understanding with the Commission and skilled labor organizations that requires the applicant to follow the portions of the applicant's plan that relate to the criteria set forth in paragraph (1)(viii) and (ix) of this subsection.

(e) (1) (i) In this paragraph, "community benefit agreement" means an agreement applicable to the development of any qualified offshore wind project that:

1. promotes increased opportunities for local businesses and small, minority, women-owned, and veteran-owned businesses in the clean energy industry;

2. ensures the timely, safe, and efficient completion of the project by facilitating a steady supply of highly skilled craft workers who shall be paid not less than the prevailing wage rate determined by the Commissioner of Labor and Industry under Title 17, Subtitle 2 of the State Finance and Procurement Article;

3. promotes safe completion of the project by ensuring that at least 80% of the craft workers on the project have completed an Occupational Safety and Health Administration 10-hour or 30-hour course;

4. promotes career training opportunities in the construction industry for local residents, veterans, women, and minorities;

5. provides for best efforts and effective outreach to obtain, as a goal, the use of a workforce including minorities, to the extent practicable; and

6. reflects a 21st-century labor-management approach based on cooperation, harmony, and partnership.

(ii) If the Commission receives reasonable proposals that demonstrate positive net economic, environmental, and health benefits to the State, based on the criteria specified in subsection (c)(3) of this section, and subject to subparagraph (iii) of this paragraph, the Commission shall approve orders to facilitate the financing of qualified offshore wind projects, including at least 1,200 megawatts of Round 2 offshore wind projects.

(iii) The Commission may not approve an applicant's proposed offshore wind project unless:

1. for a Round 1 offshore wind project application:

A. the projected net rate impact for an average residential customer, based on annual consumption of 12,000 kilowatt-hours, combined with the projected net rate impact of other Round 1 offshore wind projects, does not exceed \$1.50 per month in 2012 dollars, over the duration of the proposed OREC pricing schedule;

B. the projected net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other Round 1 offshore wind projects, does not exceed 1.5% of nonresidential customers' total annual electric bills, over the duration of the proposed OREC pricing schedule; and

C. the price specified in the proposed OREC price schedule does not exceed \$190 per megawatt-hour in 2012 dollars; and

2. for a Round 2 offshore wind project application:

A. the projected incremental net rate impact for an average residential customer, based on annual consumption of 12 megawatt-hours, combined with the projected incremental net rate impact of other Round 2 offshore wind projects, does not exceed 88 cents per month in 2018 dollars, over the duration of the proposed OREC pricing schedule;

B. the projected incremental net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other Round 2 offshore wind projects, does not exceed 0.9% of nonresidential customers' total annual electric bills during any year of the proposed OREC pricing schedule; and

C. the project is subject to a community benefit agreement.

(2) (i) When calculating the net benefits to the State under paragraph (1)(ii) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(ii) When calculating the projected net average rate impacts for Round 1 offshore wind projects under paragraph (1)(iii)1A and B of this subsection and for Round 2 offshore wind projects under paragraph (1)(iii)2A and B of this

subsection, the Commission shall apply the same net OREC cost per megawatt-hour to residential and nonresidential customers.

(f) (1) An order the Commission issues approving a proposed offshore wind project shall:

(i) specify the OREC price schedule, which may not authorize an OREC price greater than, for a Round 1 offshore wind project, \$190 per megawatt-hour in 2012 dollars;

(ii) specify the duration of the OREC pricing schedule, not to exceed 20 years;

(iii) specify the number of ORECs the offshore wind project may sell each year;

(iv) provide that:

1. a payment may not be made for an OREC until electricity supply is generated by the offshore wind project; and

2. ratepayers, purchasers of ORECs, and the State shall be held harmless for any cost overruns associated with the offshore wind project; and

(v) require that any debt instrument issued in connection with a qualified offshore wind project include language specifying that the debt instrument does not establish a debt, obligation, or liability of the State.

(2) An order approving a proposed offshore wind project vests the owner of the qualified offshore wind project with the right to receive payments for ORECs according to the terms in the order.

(3) On or before March 1 each year, the Commission shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on:

(i) compliance by applicants with the minority business enterprise participation goals under subsection (d)(4) of this section; and

(ii) with respect to the community benefit agreement under subsection (e)(1) of this section:

1. the availability and use of opportunities for local businesses and small, minority, women-owned, and veteran-owned businesses;

2. the success of efforts to promote career training opportunities in the construction industry for local residents, veterans, women, and minorities; and

3. compliance with the minority workforce goal under subsection (e)(1)(i)5 of this section.

(g) For Round 2 offshore wind project applications, the Commission shall approve OREC orders representing a minimum of 400 megawatts of nameplate capacity proposed during each application period unless:

(1) not enough Round 2 offshore wind project applications are submitted to meet the net benefit test under subsection (c)(3) of this section; or

(2) the cumulative net ratepayer impact exceeds the maximums provided in subsection (e)(1)(ii)2 of this section.

(h) (1) Within 60 days after the Commission approves the application of a proposed offshore wind project, the qualified offshore wind project shall deposit \$2,000,000 into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article.

(2) Within 1 year after the initial deposit under paragraph (1) of this subsection, the qualified offshore wind project shall deposit an additional \$2,000,000 into the Maryland Offshore Wind Business Development Fund.

(3) Within 2 years after the initial deposit under paragraph (1) of this subsection, the qualified offshore wind project shall deposit an additional \$2,000,000 into the Maryland Offshore Wind Business Development Fund.

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